

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 17656 of 2019

Date : 19.8.2019

Between:

Vanam Anantha Reddy S/o Late Vanam Achi Reddy
aged about 58 Occ Agriculture R/o Plot No 234 BN Reddy
Colony Vanasthalipuram Hyderabad 500029 Telangana
Petitioner

And

The State of Telangana
Department of Revenue Rep by its Principal Secretary
Secretariat Hyderabad & others
Respondents

The Court made the following:



HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.17656 of 2019

ORAL ORDER:

Heard learned counsel for petitioner and learned Government Pleader for Revenue.

2. Petitioner claims that land to an extent of Ac.1.00 in Survey No.5, Sahebguda, Ibrahimpatnam mandal, Ranga Reddy district is his ancestral property and he is entitled to 1/7th share in it; that O.S. No. 1364 of 2015 was instituted by unofficial respondents herein, wherein petitioner is one of the defendants and the said suit is pending on the file of Principal Senior Civil Judge, Ranga Reddy at L B Nagar. In the said suit, claim was made for partition of property in equal shares between plaintiffs and defendants. Pending consideration of the said suit, unofficial respondents made application to the Tahsildar for mutation of their names in the revenue records to the entire extent ignoring the claim of the petitioner for equal share to him as successor and based on their application the Tahsildar issued mutation proceedings on 1.4.2017. Aggrieved thereby, petitioner preferred appeal on 5.5.2017 to the Revenue Divisional Officer and the same is pending consideration. While so, this writ petition is filed challenging the order of the Tahsildar.

3. It is contended that Tahsildar has not followed the elementary principles of issuing notice and affording opportunity and even though suit on the same issue is pending, passed ex-parte orders mutating name in favour of unofficial respondent and the same is ex-facie illegal. Learned counsel further contends that there is no justification in keeping the appeal pending for more than 2 ½ years. At this stage, the urgency shown for invoking the jurisdiction of this Court is that unofficial respondents are now trying to alienate the property and

in such an event grave prejudice would be caused to the petitioner. Learned counsel for petitioner placed reliance on decision of full bench of this Court in **Chinnam Pandurangam Vs Mandal Revenue Officer, Serilingampally mandal, Ranga Reddy district and others**¹ to contend that an order passed without notice and opportunity is ex-facie illegal.

4. Whether notice was issued to the petitioner and if issued whether petitioner responded to the same or not etc., are matters to be considered by the Appellate Authority by calling for records. Prima facie reading of the order of the Tahsildar would show that he has issued notice and that no objections were filed. The Appellate Authority requires to look into the records and find out whether notices were issued to all persons including petitioner or without issuing notices, decision was made. Therefore, this Court cannot express any opinion at this stage on whether principles of natural justice were observed and due opportunity as required by The Telangana Rights in Land and Pattadar Pass Books Act, 1971 and Rules made thereunder are followed, more so when remedy of appeal is availed and same is pending before the Appellate Authority as it would prejudice the issue pending before Appellate Authority.

5. However, having regard to the fact that appeal is pending for more than 30 months and petitioner apprehends that unofficial respondents are in the process of disposing of the property, the Revenue Divisional Officer/10th respondent is directed to pass appropriate orders on the appeal preferred by the petitioner by affording due opportunity to both parties. Having regard to the apprehension expressed by petitioner, 10th respondent is directed to consider expeditious disposal of the appeal. A date may be fixed forthwith for hearing and to issue notices to the parties and to decide the appeal. On the date fixed for hearing,

¹ 2007 (6) ALD 348 (FB)

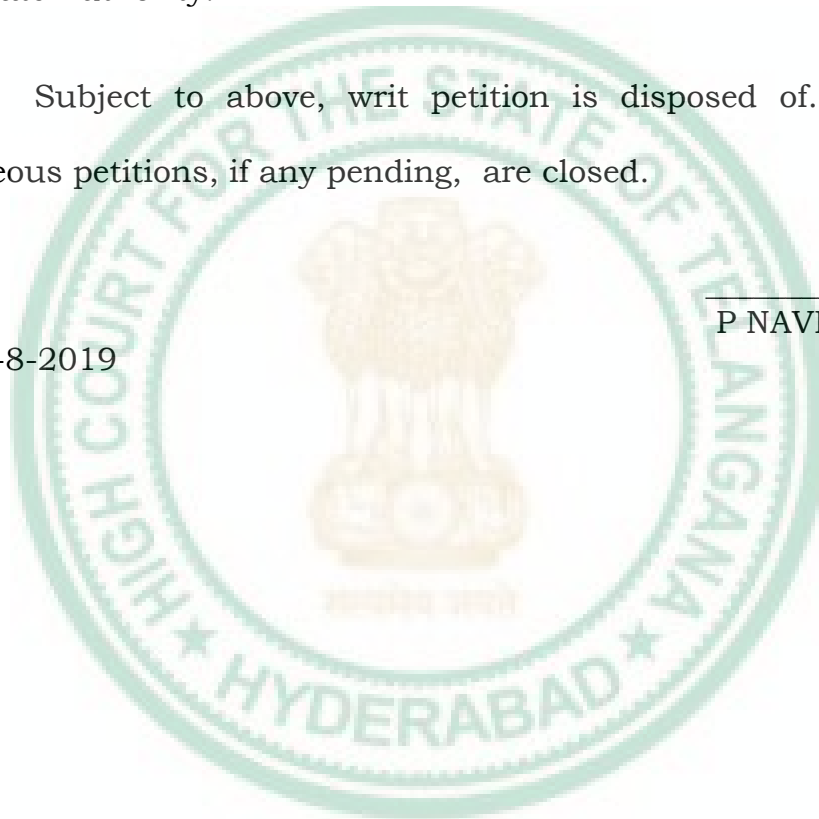
if unofficial respondents do not appear, it is open to 10th respondent to pass appropriate interlocutory orders protecting the interests of the petitioner herein.

6. It is made clear that if any sale transaction is made or third party interests are invited by the unofficial respondents, same shall abide the result of the appeal pending before the Appellate Authority and it should be made clear by the unofficial respondents to the prospective buyers that any such sale transaction is not binding on petitioner and such sale transaction shall abide the result of the pending appeal before the Appellate Authority.

7. Subject to above, writ petition is disposed of. No costs. Miscellaneous petitions, if any pending, are closed.

DATE: 19-8-2019
TVK

P NAVEEN RAO,J



HONOURABLE SRI JUSTICE P. NAVEEN RAO



WRIT PETITION No. 17656 of 2019

Date : 19.8.2019